

ARTICLE 9

SECTION 5

REAL PROPERTY

1. GENERAL

This section describes the treatment of real property, other than a principal residence. MPG Article 9, Section 2, details how to determine the ownership and availability of property.

2. DEFINITION

Real property means land and improvements. Improvements include any immovable property attached to the land such as buildings, fences, and timber. It includes mines and any oil, mineral, and timber rights related to the land. Mortgages or notes secured by a deed of trust that meet the criteria in MPG Article 9, Section 9, are also considered real property. Time shares, campground memberships, etc., which have a real property deed and assessment, are treated as real property. If there is no real property deed and assessment, the property is considered personal property.

3. DETERMINING VALUE

A. Market Value

The market value is entered on Form MC 176P. MPG Article 9, Section 1, gives instructions for Form MC 176P.

The market value of real property is determined by applying one of the following methods: MEM 50412

- 1) For property located in California, the assessed value as determined by the most recent property tax assessment is the market value.
- 2) For property located outside California, the market value is determined by applying the assessment method used in the areas where the property is located.

A third method can be used if it determines a lower market value than items 1) or 2) above and the applicant/beneficiary chooses this method:

- 3) The assessed value is established through an appraisal by a qualified real estate appraiser. The appraisal must be obtained and provided to the worker by the applicant/beneficiary.

B. Encumbrances

An applicant/beneficiary may encumber an item of real property. Encumbrances are obligations for which the property is security. Encumbrances include, but are not limited to: MEM 50413

- 1) Loans; and
- 2) Attachments for debts and taxes; and
- 3) Chattel mortgages and liens.

Encumbrances are entered on Form MC 176P.

C. Property Owned Jointly

If the property is owned jointly, the worker must determine the applicant's/beneficiary's share of the market value and encumbrances. This determination is done before entering the amounts on Form MC 176P.

1) Share of Market Value

The percentage of the applicant's/beneficiary's ownership in the property may be stated by the applicant/beneficiary, e.g., "I own 20%," or, if shares are equal, may be computed by the worker. The worker must divide the number 1 by the number of owners to determine the percentage of ownership. The total market value is multiplied by the percentage to determine the applicant's/beneficiary's share of the market value.

EXAMPLE: Four individuals own equal shares of a piece of property with a market value of \$10,000. The worker divides 1 by 4 to arrive at the applicant's/beneficiary's share of 25%. Twenty-five percent of \$10,000 is \$2,500.

2) Share of Encumbrances

The worker will determine the applicant's/beneficiary's share of encumbrances by multiplying the total amount of encumbrances by the percentage of the applicant's/beneficiary's ownership share of property. MEM 50414

EXAMPLE: A piece of property worth \$10,000 is owned equally by four individuals. The applicant's/beneficiary's share of ownership is 25%. The share of encumbrances is also 25%. The total encumbrances are \$5,000. Twenty-five percent of \$5,000 is \$1,250. This is the applicant's/beneficiary's share of encumbrances.

D. Net Value

The net market value is the owner's equity in the property. Equity is determined by subtracting encumbrances from the market value. The value of property owned jointly is determined by subtracting the applicant's/beneficiary's share of encumbrances from his/her share of the market value of the property. MEM 50415

4. VERIFICATIONS

A. Market Value

The market value of other real property must be verified prior to approval by viewing any of the following: MEM 50167

- 1) A current tax statement from the Tax Assessor's Office; or
- 2) Records maintained by the Tax Assessor; or
- 3) A written statement from a qualified real estate appraiser which gives the appraisal value of the property if the applicant/beneficiary has chosen the option discussed in item 3.A. above.

Appendix 9-5-B is provided as a sample letter which may be used to verify the value of property located out of San Diego County.

B. Encumbrances

Encumbrances of record on other real property must be verified prior to granting by viewing:

- 1) A payment book issued by the institution or person holding the encumbrance which indicates the current amount owed; or
- 2) Written correspondence from the institution or person holding the encumbrance which states the current amount owed.

C. Oil Leases, Mineral Rights, Timber Rights

The value of these items is verified by one of the following:

- 1) Written or telephone contact with a member of a recognized professional appraisal society which establishes the current market value of the lease or right; or
- 2) Records maintained by the Tax Assessor where the lease or right is located; or
- 3) Written or telephone contact with the company/organization developing the natural resource which establishes the current market value.

D. When Verifications are Required

Other real property must be verified at the following times:

- 1) Application and reapplication; and
- 2) Any time a change is reported; and
- 3) At redetermination when:
 - a) An item was not previously verified; and
 - b) Items which could have appreciated in value since the last verification.

5. OTHER REAL PROPERTY THAT CAN BE EXEMPT

A. Net Market Value of \$6,000 or Less

MEM 50427

Other real property that has not been exempted under any other criteria in Article 9 will be exempt if both of the following conditions are met:

- 1) The combined net market value of all "other real property" is \$6,000 or less; and
- 2) The owner is utilizing the property per the criteria in item 6. below.

B. Net Market Value More Than \$6,000

Other real property with a net market value of more than \$6,000 is treated as follows:

- 1) The first \$6,000 of the net market value is exempt if the owner is utilizing the property per the criteria in item 6. below; and
- 2) The net market value in excess of \$6,000 is included in the property reserve (see MPG Article 9, Section 1).

6. UTILIZATION REQUIREMENTS

Other real property that falls within the property reserve limits when added to the net market value of all other property, does not need to be utilized. Other real property that exceeds the limit but whose market value is \$6,000 or less must be utilized in order to be exempt. The computation for utilization is done on Form MC 176P.

MEM 50416

A. Ways to Utilize

Utilization requirements can be met by either of the following methods:

- 1) The applicant/beneficiary is receiving annual income of at least six percent of the net market value of the property.

- a) For property not limited to seasonal use, this requirement is met if the net monthly income from the property is one-twelfth of six percent of the net market value of the property.
- b) For property limited to seasonal use, this requirement is met if the yearly net income is six percent of the net market value of the property. Examples of property limited to seasonal use includes farmland and summer cabins; or
- 2) The property has been sold, or the sale is in escrow and there is a genuine attempt to close the sale.

Treatment of income from property is detailed in MPG Article 10, Section 5.

B. Utilization Period Definition

The applicant/beneficiary will be allowed six months to meet utilization requirements. This six-month period is called the utilization period, and begins on the first of the month following issuance of a notice of action informing the applicant/beneficiary that the property is not yielding sufficient income, as required in item 6.A. above. The utilization period will be stayed during periods of ineligibility (see item 6.G.).

C. Extension of the Utilization Period

The utilization period may be extended for the following reasons:

- 1) The utilization period will be extended for as long as the property is listed for sale, provided all of the following conditions are met:
 - a) The worker determines that utilization requirements can only be met by sale of the property. This determination is made by using evidence provided by the applicant/beneficiary. Evidence is, but is not limited to, either of the following:
 - (1) A written statement from a qualified real estate appraiser which gives the appraisal value of the property and its income potential; or
 - (2) A certificate of condemnation; and
 - b) The property is listed for sale with a licensed real estate broker at the market value; and
 - c) The applicant/beneficiary provides the following evidence every six months, and at any other time it is requested by the worker.
 - (1) A statement from the real estate agency that no bona fide offer has been rejected; and

(2) Copies of any offers that have been submitted and the reasons for rejection; and

(3) Evidence of the efforts being made to advertise the property for sale.

2) The utilization period may be extended for a maximum of one year if good cause is found. (See item 7. for good cause determination.)

D. Property Utilized by Sale

If the applicant/beneficiary utilizes the property by sale, the property must be sold for at least market value, unless the property was sold under either of the following situations and the applicant/beneficiary submits evidence that there was a bona fide attempt to sell at market value.

1) The property was listed with a licensed real estate broker for at least three months and the final sale price was similar to comparable sales in the area; or

2) There was an inability to sell the property for the market value and the worker determines that the final sale price was reasonable.

E. Miscellaneous Requirements

1) An existing environmental impact report involving a property must be considered by the worker in determining the utilization potential of the property.

2) A life estate interest in real property must be utilized in accordance with this section. (See MPG Article 9, Section 9 for treatment of life estate interests.)

F. Reassessment of Property

The applicant/beneficiary may arrange for a reassessment of the property during the utilization period. The assessment affects utilizations as follows:

1) The reassessment value will be used in determining utilization requirements.

2) The reassessment will not affect the beginning date or the length of the utilization period.

G. When to Apply Utilization Period

A six-month utilization period will begin at the following times:

1) At application; and

2) When other real property that was utilized is no longer being utilized; and

- 3) When the net market value of other real property, together with other non-exempt property, is no longer within the property reserve limit.

EXCEPTION: When a utilization period has already begun and the beneficiary becomes ineligible for Medi-Cal prior to its expiration, the remainder of the utilization period must be applied if eligibility is subsequently reestablished and the property is not utilized at that time. However, if the beneficiary can verify that the property was utilized at any time during the period of ineligibility, a new utilization period will begin.

EXAMPLE: An applicant is determined eligible and has other real property with a net market value of \$5,000 that is not being utilized. The six-month period is 1-8X through 6-8X. The beneficiary moves out of state on 3-5-8X and Medi-Cal is discontinued 3-31-8X. The applicant reapplies on 9-3-8X. The property is still not being utilized. The applicant is granted Medi-Cal effective 9-1-8X. The remaining three months of the utilization period is applied for 9-8X through 11-8X.

7. UTILIZATION GOOD CAUSE DETERMINATION

Good cause, for purposes of this section, is found only if the applicant/beneficiary has made a bona fide effort to meet the utilization requirements and is unable to do so because of circumstances beyond the applicant's/beneficiary's control. Circumstances beyond the applicant's/beneficiary's control include the following: MEM 50417

- A. The death of a part-owner of the property and the administrator or executor of the estate is unable or refuses to dispose of the property, as long as the administrator/executor is not the applicant/beneficiary.
- B. Prolonged illness causing the seller to be homebound or hospitalized during the utilization period and unable to take the necessary action to meet utilization requirements or to arrange for an agent to do so.
- C. Similar reasons which the worker determines meet the general intent of good cause.
- D. Misplaced reliance by the applicant/beneficiary upon what appeared to be a bona fide offer. The worker will require a copy of the written offer for the property as evidence that the offer was bona fide. Misplaced reliance may have resulted if the offer was either of the following:
 - 1) Bona fide but the purchaser was unable to complete the purchase; or
 - 2) Appeared to be bona fide but eventually was found not to be bona fide.

8. UTILIZATION WHEN PROPERTY IS CO-OWNED

MEM 50351
50416

The applicant/beneficiary must meet the utilization criteria outlined below when he/she owns an interest in other real property with a person for whom there is not responsibility.

- A. If the property is being used by the co-owner as a home, the co-owner may elect to pay the applicant/beneficiary an amount that is sufficient to meet the six-percent utilization requirement.

When utilizing the property in this manner, the co-owner would also have to pay the applicant's/beneficiary's share of the expenses of the property in order for the applicant/beneficiary to receive the amount of net income required for utilization.

- B. If the co-owner does not use the property as a home, utilization criteria will be met if either of the following conditions are met:

- 1) The property is rented for an amount sufficient to provide the applicant/beneficiary a net income of six percent of his/her interest in the property; or
- 2) The co-owner pays the applicant/beneficiary an amount that is sufficient to meet the utilization requirements above.

- C. The net income received by the applicant/beneficiary is considered income from property. (See MPG Article 10, Section 5.)

OTHER REAL PROPERTY (ORP)

Includes any property which has a real property deed and tax assessment such as house(s) on lots, apartments, condos, time shares, campground memberships, etc., which are not exempt as a principal residence.

PROCEDURE FOR:

1. New applicants or beneficiaries who own real property not exempt as a principal residence.

NOTE: Net Market Value is abbreviated as NMV. Property Reserve is abbreviated as PROP. RES.

CASE SITUATION FOR AN MFBU OF ONE (1)	ELIGIBILITY CONDITIONS	UTILIZATION REQUIREMENTS	PROCEDURE
A. ORP under \$6000 NMV; PROP. RES. including ORP is under limit. Example: ORP \$1200 NMV, \$200 CSV insurance, \$1400 property reserve total is under limit for one. (\$1900)	Eligible.		Complete MC 176P. Use any net income from property in SOC determination.
B. ORP under \$6000 NMV; PROP. RES. including ORP is over limit. Example: ORP \$1000 NMV, \$500 savings, \$500 CSV. Total PROP. RES. \$2000. Over limit for one. (\$1900)	Eligible, if utilization requirements are met for ORP.	<u>Util</u> =6% of NMV in net rent <u>or</u> property is sold or in escrow. <u>Time Limit</u> = 6 months from 1st of month after MC 239U issued.	Complete MC 176P. 1. Property meets util. req.: a. Send MC 239U with approval NOA. b. Set tickler to review util. in 6 months. 2. Property does not meet util. req.
C. ORP over \$6000 NMV; PROP. RES. including ORP in excess of \$6000 is under limit.		Can extend 12 months for good cause.	a. Send MC 239U with approval NOA.

CASE SITUATION FOR AN MFBU OF ONE (1)	ELIGIBILITY CONDITIONS	UTILIZATION REQUIREMENTS	PROCEDURE
Example: ORP \$7200 NMV. \$100 savings, \$1200 excess ORP. Total PROP. RES. \$1300. Under limit for one. (\$1900)		Can extend indefinitely if Util can only be met by sale.	<ul style="list-style-type: none"> b. Set tickler for the 5th month following month in which MC239U is sent. c. In 5th month review for Util met or can extension be granted and new control set for 5 more months. d. Send new MC239U if Util is met or if time is extended. e. Discontinue at end of 6th month if Util is still not met. Must have timely and adequate NOA of disc.
D. ORP over \$6000 NMV; PROP. RES. including ORP in excess of \$6000 is over limit. Example: ORP \$10000 NMV. \$1000 savings, \$4000 excess ORP. Total PROP. RES. \$5000. Over prop. limit for one. (\$1900)	Ineligible	Not applicable.	Complete MC 176P. Send MC 239Y.

NOTE: Time shares, campground memberships, etc., which do not include real property deed and assessment are treated as personal property.

OUT-OF-COUNTY REAL PROPERTY INQUIRY

TO: Assessor and/or Recorder of
Appropriate County

RE: [Applicant/Beneficiary, Spouse, and Case Name(s)]

CASE NUMBER:

(Client's Name) is an applicant beneficiary of Medi-Cal in San Diego County. To help establish his/her eligibility for this program, please complete the spaces below with the indicated property information. The applicant/beneficiary has provided the following information:

(List any known properties in the receiving county)

Thank you,

(Worker signature and number)

(District Address)

ASSESSOR:

Description of Property(ies) -

Assessed or Market value - Land \$ _____ Improvements \$ _____

Completed by _____

Date _____

RECORDER:

Acquired or conveyed property(ies) in last two years -

from _____ to _____ date _____

Completed by _____

Date _____